



January 27, 2004

HOUSE BILL No. 1138

DIGEST OF HB 1138 (Updated January 22, 2004 1:03 pm - DI 105)

Citations Affected: IC 33-5; noncode.

Synopsis: Superior courts. Establishes a new superior court or an additional superior court in: (1) Perry County; (2) Howard County; (3) Hamilton County; (4) Dearborn County; (5) Vigo County; and (6) Montgomery County. Abolishes the Montgomery county court.

Effective: July 1, 2004.

Stilwell, Oxley

January 13, 2004, read first time and referred to Committee on Courts and Criminal Code.
January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1138—LS 6937/DI 105+



January 27, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1138

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 33-5-10.2-1, AS ADDED BY P.L.45-2000,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 1. There ~~is~~ **are** established ~~a court~~ **two (2) courts**
4 of record to be known as the Dearborn superior court (~~referred to as~~
5 ~~"the court" in this chapter~~). ~~The No. 1 and the Dearborn superior~~
6 **court No. 2. Each** court may have a seal containing the words
7 "Dearborn Superior Court (**insert No. 1 or No. 2**), Dearborn County,
8 Indiana". Dearborn County comprises the judicial district of the court.
9 SECTION 2. IC 33-5-10.2-2, AS ADDED BY P.L.45-2000,
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2004]: Sec. 2. (a) ~~The~~ **Each** court has one (1) judge, who shall
12 be elected at the general election every six (6) years in Dearborn
13 County. ~~The~~ **A** judge's term begins January 1 following the election and
14 ends December 31 following the election of the judge's successor.
15 (b) To be eligible to hold office as judge of the court, a person must:
16 (1) be a resident of Dearborn County;
17 (2) be less than seventy (70) years of age at the time of taking

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office; and

(3) be admitted to the bar of Indiana.

SECTION 3. IC 33-5-10.2-3, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b), ~~the~~ **each** court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 4. IC 33-5-10.2-4, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The judge of ~~the each~~ court has the same powers relating to the conduct of the business of the court as the judge of the Dearborn circuit court. The judge of ~~the each~~ court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 5. IC 33-5-10.2-5, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The judge of ~~the each~~ court shall appoint a bailiff and an official court reporter for the court. ~~The Each~~ judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court. Their salaries shall be paid monthly out of the treasury of Dearborn County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the **appointing** court.

SECTION 6. IC 33-5-10.2-6, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The clerk of the court, under the direction of ~~the~~ **each** judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for ~~the each~~ court, which shall be kept separately from the books and papers of other courts.

SECTION 7. IC 33-5-10.2-7, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~The Each~~ court shall hold its sessions in the Dearborn County courthouse in Lawrenceburg, Indiana, or in such other places in the county as the Dearborn county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities **for each court**, including furniture and equipment, as may be necessary. The Dearborn County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 8. IC 33-5-10.2-8, AS ADDED BY P.L.45-2000,

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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The jury commissioners appointed by the judge of the Dearborn circuit court shall serve as the jury commissioners for ~~the each~~ court. Juries shall be selected in the same manner as juries for the Dearborn circuit court. The grand jury selected for the Dearborn circuit court shall also serve as the grand jury for ~~the each~~ court as may be necessary.

SECTION 9. IC 33-5-10.2-9, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The judge of the Dearborn circuit court may, with the consent of the judge of ~~the a~~ court, transfer any action or proceeding from the circuit court to the court. The judge of ~~the a~~ court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

SECTION 10. IC 33-5-10.2-10, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The judge of the Dearborn circuit court may, with the consent of the judge of ~~the a~~ court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of ~~the a~~ court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

SECTION 11. IC 33-5-10.2-11, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. ~~The Each~~ court has a standard small claims and misdemeanor division.

SECTION 12. IC 33-5-20.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. There shall be and is hereby established a superior court in Howard County, Indiana, which shall consist of ~~two (2)~~ **three (3)** judges who shall hold their offices for six (6) years and until their successor shall have been elected and qualified.

SECTION 13. IC 33-5-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There are created ~~five (5)~~ **six (6)** superior courts in Hamilton County, Indiana, each consisting of one (1) judge, who shall hold office for a term of six (6) years, beginning January 1 after the election for the office is held and until a successor is elected and qualified. Every six (6) years, the voters of Hamilton County shall elect at the general election a judge for each superior court.

(b) To be eligible to hold office as judge of a superior court, a person must be:

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- (1) a resident of Hamilton County;
- (2) under seventy (70) years of age when taking office; and
- (3) admitted to the practice of law in Indiana.

SECTION 14. IC 33-5-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The superior courts shall be known as the Hamilton superior court No. 1, the Hamilton superior court No. 2, the Hamilton superior court No. 3, the Hamilton superior court No. 4, ~~and~~ the Hamilton superior court No. 5, and the **Hamilton superior court No. 6.** The county of Hamilton shall constitute the judicial district of each court. Each court is a court of record and general jurisdiction and shall have a seal containing the words "Hamilton Superior Court (insert No. 1, No. 2, No. 3, No. 4, ~~or~~ No. 5, **or No. 6**) of Hamilton County, Indiana".

SECTION 15. IC 33-5-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The Hamilton superior court No. 4, ~~and~~ the Hamilton superior court No. 5, **and the Hamilton superior court No. 6** have a standard small claims and misdemeanor division.

SECTION 16. IC 33-5-36.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There ~~is~~ **are** established ~~a court two~~ **(2) courts** of record to be known as Montgomery superior court ~~The No. 1 and Montgomery superior court No. 2.~~ **Each** court may have a seal containing the words "Montgomery Superior Court (insert No. 1 or No. 2) of Montgomery County, Indiana".

(b) Montgomery County comprises the judicial district of ~~the each~~ court.

SECTION 17. IC 33-5-36.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) ~~The~~ **Each** court has one (1) judge, who shall be elected at the general election every six (6) years in Montgomery County. The term of the judge begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of the court, a person must:

- (1) be a resident of Montgomery County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

SECTION 18. IC 33-5-36.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~The~~ **Each** court has the same jurisdiction as the Montgomery circuit court.

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1 SECTION 19. IC 33-5-36.6-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. ~~A~~ **Each** judge of the
 3 court has the same powers relating to the conduct of the business of the
 4 court as the judge of the Montgomery circuit court. ~~A~~ **Each** judge of
 5 the court may also administer oaths, solemnize marriages, and take and
 6 certify acknowledgments of deeds.

7 SECTION 20. IC 33-5-36.6-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~A~~ **Each** judge of the
 9 court shall appoint a bailiff and an official court reporter for the court.
 10 Their salaries shall be fixed in the same manner as the salaries of the
 11 bailiff and official court reporter for the Montgomery circuit court.
 12 Their salaries shall be paid monthly out of the treasury of Montgomery
 13 County as provided by law.

14 SECTION 21. IC 33-5-36.6-6 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The clerk of the
 16 court, under the direction of ~~the each~~ judge of the court, shall provide
 17 order books, judgment dockets, execution dockets, fee books, and other
 18 books for ~~the each~~ court, which shall be kept separately from the books
 19 and papers of other courts.

20 SECTION 22. IC 33-5-36.6-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~The~~ **Each** court shall
 22 hold sessions in the Montgomery County courthouse in Crawfordsville,
 23 Indiana, or in such other places in the county as the Montgomery
 24 County executive may provide. The county executive shall provide and
 25 maintain suitable courtrooms and other rooms and facilities **for each**
 26 **court**, including furniture and equipment, as may be necessary. The
 27 Montgomery County fiscal body shall appropriate sufficient funds for
 28 the provision and maintenance of these rooms and facilities.

29 SECTION 23. IC 33-5-36.6-8 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The jury
 31 commissioners appointed by the judge of the Montgomery circuit court
 32 shall serve as the jury commissioners for ~~the each~~ court. Juries shall be
 33 selected in the same manner as juries for the Montgomery circuit court.
 34 The grand jury selected for the Montgomery circuit court shall also
 35 serve as the grand jury for ~~the each~~ court as is necessary.

36 SECTION 24. IC 33-5-36.6-9 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The judge of the
 38 Montgomery circuit court may, with the consent of the judge of ~~the a~~
 39 court, transfer any action or proceeding from the circuit court to ~~the~~
 40 **that** court. The judge of ~~the each~~ court may, with consent of the judge
 41 of the circuit court, transfer any action or proceeding from the court to
 42 the circuit court.

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SECTION 25. IC 33-5-36.6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The judge of the Montgomery circuit court may, with the consent of ~~the~~ a judge of the court, sit as a judge of ~~the that~~ court in any matter as if the judge of the circuit court ~~was were~~ an elected judge of the court. The judge of ~~the~~ a court may, with consent of the judge of the circuit court, sit as judge of the circuit court in any matter as if the judge of the court ~~was were~~ an elected judge of the circuit court.

SECTION 26. IC 33-5-36.6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. Each court has a standard small claims and misdemeanor division.**

SECTION 27. IC 33-5-37.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 37.9. Perry Superior Court

Sec. 1. There is established a court of record to be known as the Perry superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "Perry Superior Court, Perry County, Indiana". Perry County comprises the judicial district of the court.

Sec. 2. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Perry County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Perry County;**
- (2) be less than seventy (70) years of age at the time of taking office; and**
- (3) be admitted to the practice of law in Indiana.**

Sec. 3. The court has the same jurisdiction as the Perry circuit court.

Sec. 4. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Perry circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Perry circuit court. Their salaries shall be paid

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1 monthly out of the treasury of Perry County as provided by law.

2 Sec. 6. The clerk of the court, under the direction of the judge of
3 the court, shall provide order books, judgment dockets, execution
4 dockets, fee books, and other books for the court, which shall be
5 kept separately from the books and papers of other courts.

6 Sec. 7. The court shall hold its sessions in the Perry County
7 courthouse in Tell City or in any other place in the county as the
8 Perry County executive may provide. The county executive shall
9 provide and maintain a suitable courtroom and other rooms and
10 facilities, including furniture and equipment, as may be necessary.
11 The Perry County fiscal body shall appropriate sufficient funds for
12 the provision and maintenance of these rooms and facilities.

13 Sec. 8. The jury commissioners appointed by the judge of the
14 Perry circuit court shall serve as the jury commissioners for the
15 court. Juries shall be selected in the same manner as juries for the
16 Perry circuit court. The grand jury selected for the Perry circuit
17 court shall also serve as the grand jury for the court as may be
18 necessary.

19 Sec. 9. The judge of the Perry circuit court may, with the
20 consent of the judge of the court, transfer any action or proceeding
21 from the circuit court to the court. The judge of the court may,
22 with consent of the judge of the circuit court, transfer any action
23 or proceeding from the court to the circuit court.

24 Sec. 10. The judge of the Perry circuit court may, with the
25 consent of the judge of the court, sit as a judge of the court in any
26 matter as if an elected judge of the court. The judge of the court
27 may, with consent of the judge of the circuit court, sit as a judge of
28 the circuit court in any matter as if an elected judge of the circuit
29 court.

30 Sec. 11. The court has a standard small claims and
31 misdemeanor division.

32 SECTION 28. IC 33-5-44.1-1, AS AMENDED BY P.L.45-2000,
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2004]: Sec. 1. There is hereby established a superior court in
35 Vigo County, Indiana. ~~which~~ The court shall consist of ~~four (4)~~ five (5)
36 judges who shall hold their office for six (6) years if they behave well
37 and until their successors have been elected and qualified. In addition
38 to the ~~four (4)~~ five (5) judges, the judge of the Vigo circuit court may
39 sit as a judge of said Vigo superior court as provided in this chapter.

40 SECTION 29. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding
41 the amendment of IC 33-5-10.2 by this act, the Dearborn superior
42 court is not expanded to two (2) judges until January 1, 2005.

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(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Dearborn superior court No. 2 added by IC 33-5-10.2-1, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2005, and ends December 31, 2006.

(d) The initial election of the judge of the Dearborn superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 30. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-5-20.1-1, as amended by this act, the Howard County superior court added by this act is not established until January 1, 2005.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Howard County superior court by IC 33-5-20.1-1, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2005, and ends December 31, 2006.

(d) The initial election of the judge of the Howard County superior court added by IC 33-5-20.1-1, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 31. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-5-22-1 and IC 33-5-22-2, each as amended by this act, the Hamilton superior court is not expanded to six (6) judges until January 1, 2007.

(b) Notwithstanding IC 33-5-22-8, as amended by this act, the Hamilton superior court No. 6 does not have a standard small claims and misdemeanor division until January 1, 2007.

(c) The initial election of the judge of the Hamilton superior court No. 6 added by IC 33-5-22-1 and IC 33-5-22-2, each as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(d) This SECTION expires January 2, 2007.

SECTION 32. [EFFECTIVE JULY 1, 2004] (a) At midnight on December 31, 2004, the Montgomery county court is abolished.

(b) Notwithstanding the amendment of IC 33-5-36.6 by this act, the Montgomery superior court No. 2 is not established until January 1, 2005.

(c) Any case pending in the Montgomery county court after the close of business on December 31, 2004, is transferred on January

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1 1, 2005, to Montgomery superior court No. 2 established by
 2 IC 33-5-36.6-1, as amended by this act. All cases transferred under
 3 this SECTION that are eligible to be heard by the standard small
 4 claims and misdemeanor division, established by IC 33-5-36.6-11,
 5 as added by this act, shall be transferred to the standard small
 6 claims and misdemeanor division of the court in accordance with
 7 the venue requirements prescribed in Rule 75 of the Indiana Rules
 8 of Trial Procedure. A case transferred under this SECTION shall
 9 be treated as if the case were filed in Montgomery superior court
 10 No. 2.

11 (d) On January 1, 2005, all property and obligations of the
 12 Montgomery county court become the property and obligations of
 13 Montgomery superior court No. 2.

14 (e) The initial judge of Montgomery superior court No. 2
 15 established by IC 33-5-36.6-1, as amended by this act, shall be the
 16 person who is the Montgomery county court judge on December
 17 31, 2004. The term of the initial judge begins January 1, 2005, and
 18 ends December 31, 2006. The initial election of a judge for
 19 Montgomery superior court No. 2, established by IC 33-5-36.6-1,
 20 as amended by this act, is the general election conducted on
 21 November 7, 2006. The term of the initial elected judge begins
 22 January 1, 2007.

23 (f) This SECTION expires January 2, 2007.

24 SECTION 33. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding
 25 IC 33-5-37.9-1, as added by this act, the Perry superior court is not
 26 established until January 1, 2005.

27 (b) The governor shall appoint a person under IC 3-13-6-1(c) to
 28 serve as the initial judge of the Perry superior court established by
 29 IC 33-5-37.9-1, as added by this act.

30 (c) The term of the initial judge appointed under subsection (b)
 31 begins January 1, 2005, and ends December 31, 2006.

32 (d) The initial election of the judge of the Perry superior court
 33 is the general election on November 7, 2006. The term of the
 34 initially elected judge begins January 1, 2007.

35 (e) This SECTION expires January 2, 2007.

36 SECTION 34. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding
 37 IC 33-5-44.1-1, as amended by this act, the Vigo superior court is
 38 not expanded to five (5) judges until January 1, 2005.

39 (b) The governor shall appoint a person under IC 3-13-6-1(c) to
 40 serve as the initial judge added to the Vigo superior court by
 41 IC 33-5-44.1-1, as amended by this act.

42 (c) The term of the initial judge appointed under subsection (b)

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- 1 begins January 1, 2005, and ends December 31, 2006.
- 2 (d) The initial election of the judge of the Vigo superior court
- 3 added by IC 33-5-44.1-1, as amended by this act, is the general
- 4 election in November 2006. The term of the initially elected judge
- 5 begins January 1, 2007.
- 6 (e) This SECTION expires January 2, 2007.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1138, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-5-10.2-1, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as the Dearborn superior court (~~referred to as "the court" in this chapter): The No. 1 and the Dearborn superior court No. 2. Each~~ court may have a seal containing the words "Dearborn Superior Court (**insert No. 1 or No. 2**), Dearborn County, Indiana". Dearborn County comprises the judicial district of the court.

SECTION 2. IC 33-5-10.2-2, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) ~~The~~ **Each** court has one (1) judge, who shall be elected at the general election every six (6) years in Dearborn County. ~~The A~~ judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Dearborn County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

SECTION 3. IC 33-5-10.2-3, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (b), ~~the~~ **each** court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

SECTION 4. IC 33-5-10.2-4, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The judge of ~~the~~ **each** court has the same powers relating to the conduct of the business of the court as the judge of the Dearborn circuit court. The judge of ~~the~~ **each** court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 5. IC 33-5-10.2-5, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The judge of ~~the~~ **each** court shall appoint a

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bailiff and an official court reporter for the court. ~~The~~ **Each** judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court. Their salaries shall be paid monthly out of the treasury of Dearborn County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the **appointing** court.

SECTION 6. IC 33-5-10.2-6, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The clerk of the court, under the direction of ~~the~~ **each** judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for ~~the each~~ court, which shall be kept separately from the books and papers of other courts.

SECTION 7. IC 33-5-10.2-7, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~The~~ **Each** court shall hold its sessions in the Dearborn County courthouse in Lawrenceburg, Indiana, or in such other places in the county as the Dearborn county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities **for each court**, including furniture and equipment, as may be necessary. The Dearborn County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 8. IC 33-5-10.2-8, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The jury commissioners appointed by the judge of the Dearborn circuit court shall serve as the jury commissioners for ~~the each~~ court. Juries shall be selected in the same manner as juries for the Dearborn circuit court. The grand jury selected for the Dearborn circuit court shall also serve as the grand jury for ~~the each~~ court as may be necessary.

SECTION 9. IC 33-5-10.2-9, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The judge of the Dearborn circuit court may, with the consent of the judge of ~~the a~~ court, transfer any action or proceeding from the circuit court to the court. The judge of ~~the a~~ court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

SECTION 10. IC 33-5-10.2-10, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The judge of the Dearborn circuit court may,

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with the consent of the judge of ~~the a~~ court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of ~~the a~~ court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

SECTION 11. IC 33-5-10.2-11, AS ADDED BY P.L.45-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. ~~The~~ **Each** court has a standard small claims and misdemeanor division.

SECTION 12. IC 33-5-20.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. There shall be and is hereby established a superior court in Howard County, Indiana, which shall consist of ~~two (2)~~ **three (3)** judges who shall hold their offices for six (6) years and until their successor shall have been elected and qualified.

SECTION 13. IC 33-5-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There are created ~~five (5)~~ **six (6)** superior courts in Hamilton County, Indiana, each consisting of one (1) judge, who shall hold office for a term of six (6) years, beginning January 1 after the election for the office is held and until a successor is elected and qualified. Every six (6) years, the voters of Hamilton County shall elect at the general election a judge for each superior court.

(b) To be eligible to hold office as judge of a superior court, a person must be:

- (1) a resident of Hamilton County;
- (2) under seventy (70) years of age when taking office; and
- (3) admitted to the practice of law in Indiana.

SECTION 14. IC 33-5-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The superior courts shall be known as the Hamilton superior court No. 1, the Hamilton superior court No. 2, the Hamilton superior court No. 3, the Hamilton superior court No. 4, ~~and~~ the Hamilton superior court No. 5, and the **Hamilton superior court No. 6**. The county of Hamilton shall constitute the judicial district of each court. Each court is a court of record and general jurisdiction and shall have a seal containing the words "Hamilton Superior Court (insert No. 1, No. 2, No. 3, No. 4, ~~or~~ No. 5, **or No. 6**) of Hamilton County, Indiana".

SECTION 15. IC 33-5-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The Hamilton superior court No. 4, ~~and~~ the Hamilton superior court No. 5, **and the Hamilton superior court No. 6** have a standard small claims and

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misdemeanor division.

SECTION 16. IC 33-5-36.6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) There ~~is~~ **are** established ~~a court~~ **two (2) courts** of record to be known as Montgomery superior court ~~The No. 1 and Montgomery superior court No. 2.~~ **Each** court may have a seal containing the words "Montgomery Superior Court (**insert No. 1 or No. 2**) of Montgomery County, Indiana".

(b) Montgomery County comprises the judicial district of ~~the each~~ court.

SECTION 17. IC 33-5-36.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) ~~The~~ **Each** court has one (1) judge, who shall be elected at the general election every six (6) years in Montgomery County. The term of the judge begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as a judge of the court, a person must:

- (1) be a resident of Montgomery County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

SECTION 18. IC 33-5-36.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~The~~ **Each** court has the same jurisdiction as the Montgomery circuit court.

SECTION 19. IC 33-5-36.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. ~~A~~ **Each** judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Montgomery circuit court. ~~A~~ **Each** judge of the court may also administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

SECTION 20. IC 33-5-36.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~A~~ **Each** judge of the court shall appoint a bailiff and an official court reporter for the court. Their salaries shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Montgomery circuit court. Their salaries shall be paid monthly out of the treasury of Montgomery County as provided by law.

SECTION 21. IC 33-5-36.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. The clerk of the court, under the direction of ~~the each~~ judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other

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books for ~~the each~~ court, which shall be kept separately from the books and papers of other courts.

SECTION 22. IC 33-5-36.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~The Each~~ court shall hold sessions in the Montgomery County courthouse in Crawfordsville, Indiana, or in such other places in the county as the Montgomery County executive may provide. The county executive shall provide and maintain suitable courtrooms and other rooms and facilities **for each court**, including furniture and equipment, as may be necessary. The Montgomery County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

SECTION 23. IC 33-5-36.6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. The jury commissioners appointed by the judge of the Montgomery circuit court shall serve as the jury commissioners for ~~the each~~ court. Juries shall be selected in the same manner as juries for the Montgomery circuit court. The grand jury selected for the Montgomery circuit court shall also serve as the grand jury for ~~the each~~ court as is necessary.

SECTION 24. IC 33-5-36.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. The judge of the Montgomery circuit court may, with the consent of the judge of ~~the a~~ court, transfer any action or proceeding from the circuit court to ~~the that~~ court. The judge of ~~the each~~ court may, with consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

SECTION 25. IC 33-5-36.6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. The judge of the Montgomery circuit court may, with the consent of ~~the a~~ judge of the court, sit as a judge of ~~the that~~ court in any matter as if the judge of the circuit court ~~was were~~ an elected judge of the court. The judge of ~~the a~~ court may, with consent of the judge of the circuit court, sit as judge of the circuit court in any matter as if the judge of the court ~~was were~~ an elected judge of the circuit court.

SECTION 26. IC 33-5-36.6-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 11. Each court has a standard small claims and misdemeanor division."**

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 28. IC 33-5-44.1-1, AS AMENDED BY P.L.45-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. There is hereby established a superior court in Vigo County, Indiana. ~~which The~~ court shall consist of ~~four (4)~~ **five (5)**

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judges who shall hold their office for six (6) years if they behave well and until their successors have been elected and qualified. In addition to the ~~four (4)~~ **five (5)** judges, the judge of the Vigo circuit court may sit as a judge of said Vigo superior court as provided in this chapter.

SECTION 29. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding the amendment of IC 33-5-10.2 by this act, the Dearborn superior court is not expanded to two (2) judges until January 1, 2005.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge of the Dearborn superior court No. 2 added by IC 33-5-10.2-1, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2005, and ends December 31, 2006.

(d) The initial election of the judge of the Dearborn superior court No. 2 is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 30. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-5-20.1-1, as amended by this act, the Howard County superior court added by this act is not established until January 1, 2005.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Howard County superior court by IC 33-5-20.1-1, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2005, and ends December 31, 2006.

(d) The initial election of the judge of the Howard County superior court added by IC 33-5-20.1-1, as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(e) This SECTION expires January 2, 2007.

SECTION 31. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-5-22-1 and IC 33-5-22-2, each as amended by this act, the Hamilton superior court is not expanded to six (6) judges until January 1, 2007.

(b) Notwithstanding IC 33-5-22-8, as amended by this act, the Hamilton superior court No. 6 does not have a standard small claims and misdemeanor division until January 1, 2007.

(c) The initial election of the judge of the Hamilton superior court No. 6 added by IC 33-5-22-1 and IC 33-5-22-2, each as amended by this act, is the general election on November 7, 2006. The term of the initially elected judge begins January 1, 2007.

(d) This SECTION expires January 2, 2007.

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SECTION 32. [EFFECTIVE JULY 1, 2004] (a) At midnight on December 31, 2004, the Montgomery county court is abolished.

(b) Notwithstanding the amendment of IC 33-5-36.6 by this act, the Montgomery superior court No. 2 is not established until January 1, 2005.

(c) Any case pending in the Montgomery county court after the close of business on December 31, 2004, is transferred on January 1, 2005, to Montgomery superior court No. 2 established by IC 33-5-36.6-1, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division, established by IC 33-5-36.6-11, as added by this act, shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in Montgomery superior court No. 2.

(d) On January 1, 2005, all property and obligations of the Montgomery county court become the property and obligations of Montgomery superior court No. 2.

(e) The initial judge of Montgomery superior court No. 2 established by IC 33-5-36.6-1, as amended by this act, shall be the person who is the Montgomery county court judge on December 31, 2004. The term of the initial judge begins January 1, 2005, and ends December 31, 2006. The initial election of a judge for Montgomery superior court No. 2, established by IC 33-5-36.6-1, as amended by this act, is the general election conducted on November 7, 2006. The term of the initial elected judge begins January 1, 2007.

(f) This SECTION expires January 2, 2007."

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 34. [EFFECTIVE JULY 1, 2004] (a) Notwithstanding IC 33-5-44.1-1, as amended by this act, the Vigo superior court is not expanded to five (5) judges until January 1, 2005.

(b) The governor shall appoint a person under IC 3-13-6-1(c) to serve as the initial judge added to the Vigo superior court by IC 33-5-44.1-1, as amended by this act.

(c) The term of the initial judge appointed under subsection (b) begins January 1, 2005, and ends December 31, 2006.

(d) The initial election of the judge of the Vigo superior court added by IC 33-5-44.1-1, as amended by this act, is the general election in November 2006. The term of the initially elected judge

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begins January 1, 2007.

(e) This SECTION expires January 2, 2007."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1138 as introduced.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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